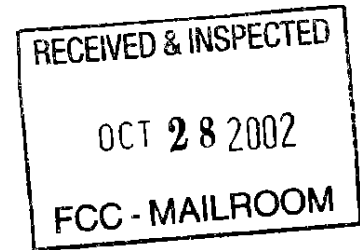


SIGNED ORIGINAL

DOCKET FILE COPY ORIGINAL

KRZB (FM) --- Texas Grace Communications
P.O. Box 8481
Gulfport, MS 39506
(228) 388-9011



October 29, 2002

Ms. Marlene Dortch, Secretary
Federal Communications Commission
9300 E. Hampton Dr.
Capitol Heights, MD 20743

Re: MM Docket No. 00-148

Opposition To Show Cause Order
Filed by Texas Grace Communications,
Permittee of KRZB/Archer City, TX
Facility ID No. 79024

Dear Ms. Dortch,

On behalf of Texas Grace Communications, permittee of KRZB/Archer City, please find enclosed an Original, plus (4) copies, and a Stamp In & Return Copy, of the attached ***Opposition to Show Cause Order*** pleading.

Please immediately stamp-in with today's receipt date, **and** then please **urgently direct this filing to Mr. Bob Hayne at the Allocations Branch** of the Audio Division.

Please return the Stamp In & Return Copy to me, in the postage-paid envelope provided.

The Secretary's courtesy is appreciated. Any questions, please feel free to call the undersigned.

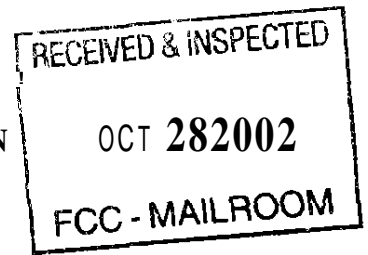
Sincerely,

A handwritten signature in cursive script that reads "Dave Carey".

Dave Carey
Proprietor, Texas Grace Communications
Enc: Signed Original, (4) Copies, + Stamp In & Return Copy

No. of Copies _____
List ABOVE _____
04

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**



In the Matter of)	
)	
Amendment of Section 73.202(b),)	
Table of Allotments,)	MM Docket No. 00-148
FM Broadcast Stations)	RM-9939
(Quanah, Archer City, Converse, Flatonia,)	RM-10198
Georgetown, Ingram, Keller, Knox City,)	
Lakeway, Lago Vista, Llano, McQueeney,)	
Nolanville, San Antonio, Seymour, Waco and)	
Wellington, TX; and Ardmore. Durant,)	
Elk City, Hcaldton, Lawton and Purcell, OK)	

To: John A. Karousos, Chief
Allocations Branch, Policy and Rules Division
Media Bureau

**TEXAS GRACE COMMUNICATIONS' OPPOSITION TO SHOW CAUSE
ORDER, AND REQUEST THAT DEFECTIVE COUNTERPROPOSAL BE
IMMEDIATELY MODIFIED OR DISMISSED**

Texas Grace Communications ("Grace") as proprietor of KRZB/Archer City, TX respectfully submits the instant OPPOSITION' to the Order to Show Cause ("Order") released by the FCC December 7, 2001 in the above-captioned proceeding.

**The Show Cause Order Contains Erroneous Information Regarding
KRZB/Archer City's Permitted Transmission Site and Service Which---
Despite the Inaccuracy--is Used as Essential Criteria Premising the Order.**

¹A companion Motion to Accept the instant Opposition has been jointly filed on this date with the FCC. The proceeding premising the Order to Show Cause under MM Docket No. 00-148 remains open and unresolved. The instant Opposition presents substantial and material facts relevant to the proceeding and Order, and has been specifically solicited by the FCC from the respondent.

The Order Must Therefore Be Dismissed.

As essential justification for ordering KRZB off its channel, the Order incorrectly states that, quote, “The Station KRZB construction permit at Archer City can be modified to specify operation on Channel 230C1 at its currently authorized transmitter site” (*See* page 2, number 3). The Order’s depiction of the “authorized transmitter site” for the permitted KRZB/Archer City service is completely inaccurate—and does not represent transmission site coordinates now or ever specified on a construction permit for KRZB/Archer City². In fact, the only authorized transmitter site *ever* corresponding to the permitted KRZB/Archer City service since its initial grant---as clearly depicted within FCC records upon the Order’s release date---is NOT depicted within the Order. The Order thus rails to protect (let alone even acknowledge) Grace’s permitted service. Instead, the Order not only forces Grace to alter its channel from channel 248 to channel 230; but it also forces Grace’s facility to move to an entirely different transmission site for which the KRZB/Archer City service has ***never been*** permitted, nor ever applied to use as a transmission site for permitted service---at a location approximately 25 miles from the permitted site in another county. In light of the Order’s citing of clearly erroneous information as essential criteria for ordering KRZB/Archer City to relinquish its permitted service, the Order must be DISMISSED---or the FCC would be endorsing an Order proven to contain false premising information, and known to misrepresent the FCC’s own official database records.

²The only KRZB/Archer City service ever permitted by the FCC is a matter of public FCC record, under BMPH-I9990217IB, Facility ID No. 79024, and bearing FCC database reference coordinates of 33-51-40 and 98-38-52. The Show Cause Order’s depiction of reference coordinates 33-36-58 and 98-51-42 is clearly erroneous, and

**The Already-Permitted KRZB/Archer City Service is a Sovereign Entity
Which Must be Protected Under FCC Rules---and Thus Takes Precedent Over Any
Proposed “Upgrade” of Another Facility Which Fails to Provide Such Protection.**

Grace can only assume that in preparing the Order, the Allocations Branch inadvertently failed to notice the discrepancy connected to the Order’s mistakenly portraying incorrect transmission site coordinates for the KRZB/Archer City permitted service. The Order is nonetheless in violation of FCC rules which stipulate that currently licensed **or** permitted services which may be “in the way” of proposed facility upgrades or move-ins must be preserved and protected---excepting a mere channel substitution at the identical transmission site³. In the instant scenario, the already-permitted KRZB/Archer City service must be protected and therefore takes precedent⁴ over the Counterproposal’ from former FCC Allocations Chief Mark Lipp, which was filed

obviously does not reflect the permitted KRZB/Archer City Channel 248 C2 service (inadvertently referred to as a permitted C1 service in the opposed Order to Show Cause).

³*See Boalsburg, Pennsylvania, et al.*, 7 FCC Rcd 7653, 7654 (1992); and *Mason, Menard, and Fredericksburg, Texas*, 15 FCC Rcd 12618-20 (2000).

⁴The Show Cause Order states that “significant public interest benefits” would allegedly be had by grant of the Lipp Counterproposal, specifically because the Dallas-Fort Worth move-in of the 97.5 co-channel facility from Oklahoma would result in a “net gain of service” to over 4 million people. Such alleged “benefits” are not relevant, however, because the Counterproposal failed to first protect the already-permitted KRZB/Archer City service at its permitted site---rendering consideration of any Counterproposal “benefits” a moot point under FCC rules.

⁵By “Counterproposal” or “Lipp Counterproposal”, we refer to that particular Counterproposal under MM Docket No. 00-148 wherein former FCC Allocations Chief Mark Lipp proposes to facilitate the Channel 248 move-in to Keller, TX (the Dallas-Fort Worth metro) of KLAQ Durant, OK, while attempting to force KRZB/Archer City’s permitted co-channel 248C2 service to abandon not only its frequency, but also its permitted, specified transmission site.

subsequent to Grace's permitted status at the referenced site'. In the instant scenario, Lipp's proposed co-channel move-in to the Dallas/Forth Worth Metro (from the smaller market of Durant/Sherman-Denison) poses immediate conflict with the already-permitted KRZB/Archer City service, failing to provide the requisite protection of the Grace service at Grace's permitted transmission site. The Counterproposal's failure to meet this requirement necessitates that the subject Show Cause Order (premised upon the Counterproposal) must be DISMISSED.

The MM Docket No. 00-148 Counterproposal Before the FCC Must be Modified to Protect KRZB/Archer City, or be Immediately DISMISSED.

Given the noted discrepancy, a very simple remedy exists in the instant docketed proceeding. Either the Lipp Counterproposal must be corrected to ensure protection of the permitted KRZB/Archer City service (whereby a channel substitution at KRZB/Archer City's permitted transmission site would constitute the *only* potential alteration to the KRZB service), or, in the alternative, the FCC must DISMISS the Lipp Counterproposal as procedurally defective.

The Show Cause Order Specifically Contradicts Previous FCC Order Issued Approximately One Month Prior to the Show Cause Order's Release, Affirming That the KRZB/Archer City Service Had Just Been Granted Full 3-Year Permitted Status At its Specified Transmission Site---Not at the Site Mistakenly Referenced in the Show Cause Order.

⁶The KRZB/Archer City service received its initial permitted status on February 7, 2000, as an abbreviated I-year permit. The Lipp Counterproposal was submitted to the FCC in October, 2000, clearly after the KRZB/Archer City permitted status was already in force and a matter of FCC public record---inclusive of permitted tower site.

Noting a brief timeline of sequential events:

On *October 26, 2001*, the FCC approved Grace's Application for Review (FCC 01-317), granting full-term, 3-year permitted status to the KRZB/Archer City service under BMPH-I 9990217IB, at its permitted transmission site, as referenced, effective October 26, 2001.

On *December 7, 2001*, the Allocations Branch released its Order to Show Cause, inadvertently depicting an erroneous transmission site for the permitted KRZB/Archer City service, in contradiction to the FCC's own database and records. The Order thus clearly contradicts the specification of KRZB/Archer City's permitted transmission site, as enumerated in the *October 26, 2001* FCC Order, as referenced.

The Show Cause Order Admits That it Has Only Contemplated a Change in KRZB/Archer City's Channel---Not in its Transmission Site---Further Evidencing the Order's Deficiency for Not Acknowledging KRZB's Permitted Service.

The FCC Allocations Branch asks Grace to *only* Show Cause "why its construction permit should not be changed to specify operation on Channel 230C1 in lieu of Channel 248C1"⁷---but never even contemplates a transmission site change. Lest there be any doubt, this specific and sole directive to Grace further evidences admission by the Allocations Branch that it simply was---and is---unaware of KRZB/Archer City's permitted transmission site. It similarly shows that the Allocations Branch is unaware that the ordered channel substitution (to channel 230C1) would not work from KRZB/Archer City's actual permitted transmission site. Under the text of the Order, Grace is never asked to address any potential relocation of its permitted service's

⁷See December 7, 2001 Order to Show Cause, p. 2, Number 4.

transmission site. This clearly evidences that the Order is defective, even if inadvertently so, for falsely depicting Grace's permitted service, and never addressing the fact that a transmission site relocation would indeed be forced upon Grace (against its will) as a result of adoption of the Counterproposal, if not modified, or upon grant of the Order. The Show Cause Order must therefore be DISMISSED.

Conclusion

For the premises set forth, Grace respectfully asks that Honorable Allocations Branch Chief John Karousos appropriately DISMISS the Order to Show Cause, which fails to acknowledge or protect KRZB/Archer City's permitted service at its permitted transmission site---and indeed, is premised on a wholly inaccurate depiction within the Order of the permitted KRZB/Archer City service. Additionally, if the Lipp Counterproposal proposing the Keller/Dallas-Fort Worth, TX move-in under MM Docket No. 00-148 can not be appropriately cured to protect the permitted KRZB/Archer City service at Grace's permitted transmission site (whereby nothing more than substitution of KRZB's channel at the permitted site would be required), then the subject Counterproposal must be DISMISSED for being deficient.

Grace gratefully appreciates the attention of the Allocations Chief in addressing and correcting this matter.

I, Dave Carey, Proprietor of Texas Grace Communications, do hereby verify that the statements contained within the instant document are true and correct to the best of my knowledge and belief. The FCC, along with any other interested parties wishing to respond to the instant document, are asked to utilize Grace's corrected address as noted below.

Respectfully Submitted,

A handwritten signature in cursive script, reading "Dave Garey", positioned above a horizontal line.

October 29, 2002

Dave Garey, Proprietor
Texas Grace Communications
P.O. Box 8481
Gulfport, MS 39506

CERTIFICATE OF SERVICE

I, Dave Carey, do hereby certify that I have, on October 29, 2002, placed in the U.S. mail and sent First Class postage prepaid the foregoing pleading to the parties whose names and addresses appear below.



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Shainis & Peltzman, Chartered
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KXOO
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KLRK
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Thiemann Aitken & Vohra, LLC
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Elgin FM Limited Partnership/
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First Broadcasting Co., LP/
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